

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)

Improving Public Safety)

Communications in the 800 MHz Band)

Consolidating the 900 MHz Industrial/)

Land Transportation and Business Pool)

Channels)

WT Docket No. 02-55

To: The Commission

COMMENTS OF SOUTHERNLINC WIRELESS
ON PETITIONS FOR RECONSIDERATION

Southern Communications Services, Inc. d/b/a SouthernLINC Wireless ("SouthernLINC Wireless"), by and through its undersigned counsel, hereby submits these Comments on its Petition for Reconsideration of the *Report and Order*, *Fifth Report and Order*, *Fourth Memorandum Opinion and Order*, and *Order* ("Report and Order")¹ in the 800 MHz Public Safety Interference proceeding, pursuant to Section 1.429 of the Federal Communications Commission's ("FCC's") rules.²

In the *Report and Order*, the FCC established an expanded band for Enhanced Specialized Mobile Radio ("ESMR") systems in the Southeastern United States to accommodate the significant channel holdings of SouthernLINC Wireless and Nextel in this area of the

¹ In re Improving Public Safety Communications in the 800 MHz Band; Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels; WT Docket No. 02-55, *Report and Order*, *Fifth Report and Order*, *Fourth Memorandum Opinion and Order*, and *Order*, 19 FCC Rcd 14969 (2004) [hereinafter *Report and Order*].

² 47 C.F.R. § 1.429 (2004).

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country.³ The FCC designated the Expansion Band in the Southeast as 812.5-813.5 MHz/857.5-858.5 MHz.

The FCC should modify the rules governing the Expansion Band to address the scarcity of channels in the Atlanta market. As in its earlier filings,⁴ SouthernLINC Wireless recommends the elimination of the Expansion Band within a seventy-mile radius of Atlanta as the preferable method of resolving this channel scarcity.

However, if the FCC finds that some spectral separation between the expanded ESMR band and Public Safety is absolutely necessary, based on its further analysis of licensing records for the Atlanta area, SouthernLINC Wireless believes this can be accomplished by a modification of its original proposal which would keep an Expansion Band in place but reduce its size.

I. INTRODUCTION

In the *Report and Order*, the FCC adopted a unique band plan for the Southeastern United States.⁵ Specifically, the FCC expanded the new ESMR band after recognizing that

³ The FCC defines the Southeast in section 90.614(c) of its amended rules, as well as in Appendix G of the *Report and Order*. Private Land Mobile Services; 800 MHz Public Safety Interference Proceeding, 69 Fed. Reg. 67,823, 67,843 (Nov. 22, 2004) (to be codified at 47 C.F.R. § 90.614(c); In re Improving Public Safety Communications in the 800 MHz Band; Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels; WT Docket No. 02-55, *Second Erratum*, 19 FCC Rcd 19651, 19655-56 (2004).

⁴ SouthernLINC Wireless has raised this issue in three previous filings with the FCC. Petition for Reconsideration of Southern LINC, WT Docket No. 02-55 (Dec. 22, 2004) [hereinafter *Petition for Reconsideration*]; Comments of Southern LINC, WT Docket No. 02-55 (Dec. 2, 2004) [hereinafter *Comments*]; Letter from Christine M. Gill, McDermott Will & Emery LLP, to Michael J. Wilhelm, Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, Federal Communications Commission (Oct. 8, 2004) [hereinafter *Ex Parte Letter*].

⁵ *Report and Order*, 19 FCC Rcd at 15058 ¶ 166.

"there are an inadequate number of channels in the 816-824 MHz/862-869 MHz band segment to replicate channel capacity of both SouthernLINC Wireless and Nextel."⁶ The FCC also shifted the Expansion Band from 814-815 MHz/859-860 MHz to 812.5-813.5 MHz/857.5-858.5 MHz in the Southeast.⁷

This modified band plan will accommodate the operations of all incumbent licensees in the Southeast, except for the Atlanta market. As SouthernLINC Wireless explained in its earlier filings, the number of Public Safety systems currently operating at 857.5-858.5 MHz in the Atlanta market could create a channel shortage if enough of them elect to vacate this portion of the band.⁸ Coupled with the fact that Public Safety systems cannot be relocated into the Expansion Band, this would result in a shortage of channels in the interleaved band while creating an Expansion Band with several unoccupied channels. While the relocation of Public Safety systems from the Expansion Band to the channels at 854-857.5 MHz would theoretically allow non-Public Safety, non-Nextel, non-SouthernLINC Wireless third-party systems⁹ to be relocated to the 857.5-858.5 MHz band, this application fails to result in full occupation of the Expansion Band because there are only twenty-four channels licensed to non-Public Safety incumbents in Atlanta and the Expansion Band is forty channels wide. If all Public Safety licensees in the Expansion Band desired to relocate to 854-857.5 MHz, no Public Safety licensees accepted relocation to the Expansion Band, and all non-Public Safety incumbents in

⁶ *Id.* at 15057 ¶ 164.

⁷ *Id.* at 15058 ¶ 166.

⁸ *Petition for Reconsideration* at 3-5; *Comments* at 2-4; *Ex Parte Letter* at 2-3. This situation is exacerbated by the number of Public Safety and Business and Industrial Land Transportation systems that must also be relocated from channels 1-120.

⁹ As used in these Comments, the terms "non-Public Safety incumbent" and "non-Public Safety licensee" exclude Nextel and SouthernLINC Wireless.

Atlanta were relocated to the Expansion Band, the result would be an Expansion Band with only twenty-four of forty channels occupied and an interleaved band with 17 channels worth of Public Safety licensees that could not be accommodated.

SouthernLINC Wireless has recommended that the FCC resolve this dilemma by eliminating the Expansion Band within a 70-mile radius of the center of Atlanta.¹⁰ Incumbent licensees at 857.5-858.5 MHz would still receive the same interference protection as any other licensee below 857.5 MHz.¹¹ The elimination of the Expansion Band in the Atlanta market would also allow the FCC to satisfy the spectrum needs of all incumbents, without forcing any licensee to accept only a *pro rata* share of its existing spectrum allocation. Finally, the rule change would also permit the continuation at full capacity of SouthernLINC Wireless's and Nextel's operations, which serve not only hundreds of thousands of commercial subscribers, but also thousands of Public Safety entities.

II. IN THE ALTERNATIVE, THE FCC COULD PROVIDE FOR A REDUCED EXPANSION BAND IN THE ATLANTA MARKET

If the FCC were to conclude that some form of Expansion Band must be maintained in the Atlanta market, SouthernLINC Wireless believes, based on its further examination of the licensing database, that a slightly modified Expansion Band could be adopted that would still allow spectral separation of Public Safety incumbents from the ESMR band. Specifically, in Atlanta, the FCC could reduce the Expansion Band from one megahertz to one-half megahertz of spectrum (at 858-858.5 MHz) and clarify that all non-Public Safety licensees currently licensed

¹⁰ The center of Atlanta is defined as geographic coordinates N33-44-55; W084-23-17.

¹¹ *Report and Order*, 19 FCC Rcd at 15058 ¶ 166.

between 851 and 861 MHz would have to accept relocation to the 858-858.5 MHz Expansion Band.

Based on these assumptions, SouthernLINC Wireless believes it would be possible to accommodate all incumbents in Atlanta. For example, if incumbent Public Safety licensees opt to retune from 858-858.5 MHz, these licensees could be retuned to channels between 854 and 858 MHz. This would create a one-half megahertz Expansion Band (20 channels) as a separation between the ESMR band and Public Safety operations. Assuming all incumbent Public Safety licensees opt to retune from this one-half megahertz Expansion Band,¹² SouthernLINC Wireless estimates there would be 157 channels licensed to Public Safety entities on the 160 channels between 854 and 858 MHz. These 157 channels would also include Public Safety incumbents relocating from channels 1-120.

In order to accommodate all the Public Safety incumbents below 858.0 MHz, it will be necessary to relocate all non-Public Safety incumbents between 851.0 and 861.0 MHz, of which there are currently twenty-four, either onto the twenty channels of the one-half megahertz Expansion Band between 858 and 858.5 MHz, or onto any of the channels between 854-858 MHz that are not needed for Public Safety relocation.¹³

Under this approach, non-Public Safety licensees would be *required* to retune from their existing channel assignments between 854 MHz and 858 MHz into the Expansion Band at 858.0-858.5 MHz to provide Public Safety licensees one-half MHz of separation from the ESMR band. Also under this approach, all Public Safety incumbents would be accommodated below 858 MHz

¹² There are, at present, eight channels licensed to Public Safety entities in this one-half megahertz Expansion Band in Atlanta.

¹³ This does not take into account any pending applications or applications for new channels in Atlanta that may be filed. Any such newly granted incumbents would create additional channel shortages.

and all non-Public Safety incumbents would be accommodated above 858 MHz or on any channels between 854-858 MHz that are not needed for Public Safety relocations.

The FCC has ensured that "[a]ll licensees operating in the band segment 806-813.5 MHz/851-858.5 MHz shall be afforded the same protection against unacceptable interference."¹⁴ Thus, all incumbent licensees would receive the same level of protection regardless of whether they operate in the existing Expansion Band, *i.e.*, 857.5-858.5 MHz, the alternative Expansion Band, *i.e.*, 858-858.5 MHz, the existing interleaved band, *i.e.*, 854-857.5 MHz, or in the alternative interleaved band *i.e.*, 854-858 MHz. Incumbent licensees would also have further interference protection because SouthernLINC Wireless will occupy the spectrum immediately adjacent to the Expansion Band, providing even greater spectral separation between non-cellular systems and Nextel's operations, which will be licensed above 862.25 MHz in the state of Georgia.

This alternative proposal would also provide additional benefits for incumbent licensees. For example, this alternative proposal would separate Public Safety and B/ILT licensees into contiguous blocks, providing Public Safety licensees with an extra buffer between their non-cellular operations and Nextel's cellular operations above 862.5 MHz. Public Safety licensees would also potentially receive more spectrum in the Atlanta market if all B/ILT licensees are successfully relocated into the reduced Expansion Band at 858.0-858.5 MHz.

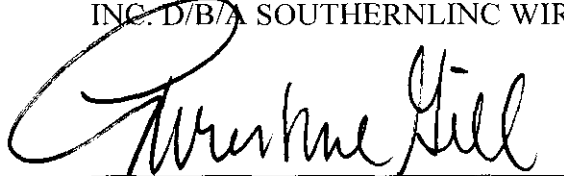
WHEREFORE, THE PREMISES CONSIDERED, SouthernLINC Wireless respectfully requests that the FCC reconsider the *Report and Order* and eliminate the one megahertz Expansion Band within a 70-mile radius of the center of Atlanta, or provide for a one-half megahertz Expansion Band within a 70-mile radius of the center of Atlanta with clarification

¹⁴ *Report and Order*, 19 FCC Rcd at 15058 ¶ 166.

that any non-Public Safety incumbents licensed at 851-861 MHz within a 70 mile radius of the center of Atlanta may be relocated into this reduced Expansion Band.

Respectfully submitted,

SOUTHERN COMMUNICATIONS SERVICES,
INC. D/B/A SOUTHERNLINC WIRELESS

A handwritten signature in black ink, appearing to read "Christine M. Gill", written over a horizontal line.

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Dated: April 21, 2005